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EMIR: a practical checklist

Initial preparation

√ **Study the regulation** and ESMA's technical standards.

√ **Seek professional advice** on the requirements placed on your organisation under EMIR and communicate these clearly to senior management.

√ **Identify which entities** will need to comply with EMIR and which transactions will fall under EMIR's scope.

√ **Confirm your counterparty classification under EMIR** (if you have not already done so) and inform your counterparties and local regulator(s) as to whether this is NFC+ or NFC-. It is worth noting that ISDA Amend provides a free online system which will allow all businesses to classify themselves according to the EMIR taxonomy by answering a series of questions.

√ **Obtain LEIs (Legal Entity Identifiers)** for each of your entities subject to EMIR. LEIs should ideally be applied for in the jurisdiction where each entity is established. LEIs must then be communicated to counterparties.

√ **Examine the readiness of existing processes and systems.** Can they be adapted to meet EMIR requirements? Or will third party software be necessary? How will LEIs be maintained in the existing treasury system?

Trade reporting

√ **Decide on your reporting strategy.** Will you report directly to a trade repository (TR)? Will you build your own IT solution or buy one in? Will you rely on your bank to do the heavy lifting? Meet with and compare third-party trade reporting software providers. Examine bank-led delegated reporting services (many of which are provided free of charge). Also, explore connectivity options with TRs for direct reporting.

√ **Remember your obligations.** Bear in mind that the responsibility for accurate reporting lies with each counterparty, so even if you choose a third-party reporting solution, you must be happy that your reporting obligations are being met. Also, remember that internal trades must be reported – bank services cannot perform this function so a direct link to a TR may still be required.

√ **Determine UTI generation protocols.** Who will generate the UTI – you or your counterparty? How will the UTI be confirmed? Will you follow the best practice guidelines set out by ISDA? Can your existing treasury system generate UTIs for internal trades? Consider how back office processes will need to be adapted to accommodate the inputting of UTIs.

√ **Prepare for the back-loading of trades** as per the timeline below – this will require the allocation of UTIs to deals outstanding since 16th August 2012 or executed since then:

Trade reporting timeline

Contracts entered into	Condition	Reporting Deadline
On or after 16th August 2012	If outstanding on 12th February 2014	12th February 2014
Before 16th August and still outstanding on 16th August 2012	If outstanding on 12th February 2014	12th February 2014 +90 days
Before 16th August and still outstanding on 16th August 2012, or On or after 16th August 2012	If no longer outstanding on 12th February 2014	12th February 2017 (12th February 2014 +3 years)

√ **Test processes and systems** before reporting commences. Ensure that systems are functionally correct – and are actually EMIR compliant.

NB: Seek expert advice. If in doubt over any aspect of EMIR, professional advice should be sought – whether through your relationship bank, or legal advisor.